

Remarks/Arguments:

In the specification, the first full paragraph on page 2, the first paragraph of the Detailed Description of the Disclosure (bottom page of 3), and the abstract are amended to correct the informality so that “switched” now reads “switching.” In Claim 1, the word “switched” is amended to “switching” to correct an informality. In the abstract, line 1, the word “comprises” is amended to the word “having,” to avoid the use of legal phraseology.

Claim 1 is pending and claims the fog filled bubble blower of this Application (the “Fusco Blower”). The Examiner has rejected Claim 1 as obvious and unpatentable over Sims, U.S. Patent No. 5,205,771. The Fusco Blower, however, is not obvious from Sims, and Applicant therefore respectfully traverses this rejection. As explained in the accompanying affidavit of Michael T. Fusco (“Fusco Aff.”), inventor of the Fusco Blower, the motorization of a fog filled bubble blower creates problems, the solutions to which are neither suggested by nor obvious from Sims. Fusco Aff., ¶ 4, 5. Specifically, one problem is that motorization creates a high volume of air that will dilute the fog to unacceptable levels unless further steps are taken.

One step taken by the Fusco Blower to solve this problem is to suck the fog out of the chamber rather than blow it out. This results in a higher concentration of fog in the air and a more satisfactory product. See Fusco Aff. ¶ 4. Sims does not suck the fog out of the fog chamber, and doing so is not obvious from Sims. Fusco Aff. ¶ 4-7. This solution was not obvious, and required lengthy experimentation. Fusco Aff., ¶ 4 & 5. Fusco Claim 1, which claims sucking the fog from the chamber, is not obvious from Sims, and allowance is requested.

Additional claims are added to claim the use of a separate fresh air intake hose to supply air to the fog chamber away from the exhaust fan, and to supply fresh air so that the heating element assembly is between the fresh air and the exhaust fan. This allows fresh air to refill the fog chamber as the fogged air is evacuated, and a greater amount of fog is evacuated before it is materially diluted by fresh air. See Fusco Aff., ¶ 5, & Specification, p. 5, lines 20-23. The elements of a fresh air intake hose, and the relative location of the heating element assembly to the fresh air and exhaust fan are neither present in nor suggested by Sims, and are not obvious from Sims. Allowance of Claims 2 – 5 is requested.


That the Fusco Blower is not obvious from Sims also is clear from the commercial success of the Fusco Blower. Non-motorized fog blowers like that in Sims have been produced. See Fusco Aff., ¶ 6. The Fusco Blower, however, has met widespread commercial success despite such blowers. As explained in the affidavit of James D. Engle (“Engle Aff.”), President of Little Kids, Inc., and licensee of the Fusco Blower, the Fusco Blower has been sold at major retailers, including Toys R US and K-Mart, and over 400 independent retailers last year. Engle Aff., ¶ 3. Most of these retailers have expressed interest in carrying the product again next year. Id. Sales have exceeded \$500,000 wholesale and have exceeded an estimated \$1,000,000 retail. Engle Aff., ¶ 4. (More precise numbers are not provided to preserve Little Kids, Inc.’s trade secrets. Id.). These sales indicate commercial success, and that the Fusco Blower is not obvious from Sims.

Appl. No. 10/821,742
Amdt. Dated June 1, 2005
Reply to Office Action of Dec. 1, 2004

For the above reasons, allowance on all claims is respectfully requested.

Respectfully submitted,

Chace Rutenberg & Freedman, LLP

By: 

Richard D. Zimmerman, Reg. No. 39,084

Attorney for the Applicant

One Park Row, Suite 300

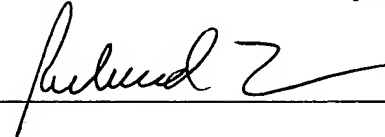
Providence, RI 02903

Tel: 401.453.6400

Fax: 401.453.6411

CERTIFICATE OF MAILING

I hereby certify that on June 1, 2005 this Amendment and Response to First Office Action, with Affidavits of Michael T. Fusco and James D. Engle, was mailed under 37 CFR §1.08 by U.S. Postal Service, first-class mail, to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with sufficient postage prepaid.

 June 1, 2005
Date: